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Application No.: 10/727,287

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Docket No.: 480062001800

REMARKS

This application has been reviewed in light of the Office Action dated August 25, 2006. Claims 1-24 are pending in this application. Applicant notes that both final and non-final boxes were checked on the Office Action Summary, but that the Examiner indicated telephonically that the Office Action was non-final. Claims 1, 13, 16, 21 and 24 have been amended, support for which is found in the originally filed application at, for example, paragraphs [0043]-[0052] and FIGS. 5 through 9. No new matter or issues have been introduced. Claims 9-12, 14-15 and 17-18 have been withdrawn from consideration. In view of the comments herein, Applicant respectfully submits that all withdrawn claims are dependent on allowable independent claims and therefore requests withdrawal of the restriction requirement and rejoinder of the withdrawn claims pursuant to MPEP § 821.04 (Eighth Edition, Revision 5, August 2006, p. 800-64).

Claim Rejections - 35 U.S.C. § 102

Claims 1, 8, 13, 16 and 19-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,562,618 to Cai et al. Applicant respectfully traverses this rejection in view of the amendments to the claims.

As amended, independent claim 1 recites, *inter alia*, "a marking for providing guidance to a user for placement of a catheter over said port stem, said marking comprising at least a portion of a band at least partially disposed about the circumference of said port stem, wherein said marking is located on said port stem between a distal end of said port stem and a proximal end of said port stem."

The Examiner states on page 2 of the Office Action that Cai et al. disclose:

"an implantable port (20) comprising a housing (22) comprising a fluid chamber (40) and an access aperture (58) in fluid communication with the fluid chamber (40), wherein the access aperture (58) is covered by a septum (48); a port stem (84) extending from the housing (22), wherein the port stem (84) has an inner lumen (68) forming a channel in fluid communication with

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the fluid chamber (40); and a marking (100) for providing guidance to a user for placement of a catheter (102) over the port stem (84); wherein the marking (100) is located on the port stem (84) and a proximal end of the port stem, (see figures 1, 3, and 8); and wherein the marking (100) is positioned on the port stem (84) such that when the catheter (102) is aligned¹ with the marking is compressed by the locking sleeve (132)."

Applicant submits that Cai et al. do not show or describe "a housing comprising a fluid chamber and an access aperture in fluid communication with said fluid chamber, wherein said access aperture is covered by a septum...and a marking for providing guidance to a user for placement of a catheter over said port stem, *said marking comprising at least a portion of a band at least partially disposed about the circumference of said port stem*, wherein said marking is located on said port stem between a distal end of said port stem and a proximal end of said port stem" (emphasis added), as recited in independent claim 1 of the present application. Accordingly, Applicant respectfully submits that Cai et al. do not anticipate claim 1 because Cai et al. do not show or describe each and every element as set forth therein. (MPEP § 2131, Eighth Edition, Revision 5, August 2006, p. 2100-67). Therefore, in view of the above, Applicant respectfully submits that claim 1 is patentable in view of Cai et al.

As amended, independent claim 13 recites, inter alia, "a marking positioned on an outer surface of said outlet stem, wherein said marking is located between said proximal end and said distal end of said outlet stem, and *wherein said marking is configured to provide a visual reference for ceasing advancement of the catheter over said port stem*" (emphasis added).

Applicant submits that Cai et al. do not show or describe at least these features recited in independent claim 13. Rather, Cai et al. shows and describes a lock ring (120) with two slots (126, 127), which cooperate with bayonet (100). Slot (126) is configured as a cam surface (128) which provides camming action of lock ring (120) relative to insert (78), thereby providing a mechanical advantage for the bunching up and the radially inwardly forcing of catheter (24) (see col. 7:51-58, emphasis added). Accordingly, Applicant respectfully submits that Cai et al. do not anticipate claim

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13 because Cai et al. do not show or describe each and every element as set forth therein. Therefore, in view of the above, Applicant respectfully submits that claim 13 is patentable in view of Cai et al.

With respect to independent claims 16 and 21, each include limitations similar to those of claim 13 discussed above, which are not shown or described by Cai et al. Specifically, as amended, claim 16 recites, inter alia, "providing a marking on said port stem for guiding a user on placement of a catheter over said port stem, *wherein said user ceases advancement of the catheter over said port stem once the catheter is substantially aligned with said marking*" (emphasis added). As amended, claim 21 recites, inter alia, "advancing said catheter over said port stem *until the catheter is substantially aligned with a marking on said port stem and ceasing advancement of said catheter thereafter*" (emphasis added). Accordingly, Applicant respectfully submits that Cai et al. do not anticipate independent claims 16 or 21 because Cai et al. do not show or describe each and every element as set forth therein. Therefore, in view of the above, claims 16 and 21 are patentable in view of Cai et al.

Moreover, in view of the above, claims 8, 19, 20, and 22-24 are also patentable because they depend from one of independent claims 1, 13, 16, and 21 and also recite features not shown or described by Cai et al.

Claim Rejections - 35 U.S.C. § 103

Claims 2-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cai et al. Applicant respectfully traverses this rejection.

In view of the above, Applicant respectfully submits that Cai et al. do not show or describe each and every feature of independent claim 1. Thus, claims 2-7 are patentable because they depend from a patentable independent claim and also recite features not shown or described by Cai et al.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to

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withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 480062001800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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